

**Manatee Protection Plan Review Committee (MPPRC)
Minutes of March 27, 2009**

Committee Attendees: Brett Bibeau; T. Spencer Crowley III; Judith Futerfas; David Gardner; Lynda Green; Mark Lewis; Kate L. Mansfield, Ph.D.; Dick Townsend (Vice Chair); Julia Zaias, Ph.D.

County Staff Attendees: Lee Hefty (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Lisbeth Britt (DERM); Molly Messer (DERM); Nancy Revilla (DERM); Matt Davis (DERM); Lisa Spadafina (DERM)

Other Attendees: A sign in sheet was provided for public sign in .

1. Welcome, Introductions, and Review of Agenda: A quorum was established. The meeting was called to order by Vice Chair Dick Townsend at 1:05 P.M. The meeting was recorded on video.

Vice Chair Townsend recognized DERM Assistant Director, Lee Hefty, who asked to answer a question from the February 24, 2009 meeting regarding DERM permitting for reconstruction of a marina on the Miami River. In particular, members had a question on how the marina at 2000 NW North River Drive was able to reconstruct their existing slips without a limitation on the number of slips that can be used by powerboats, noting that the facility historically also included mooring of sailboats. Mr. Hefty explained that the applicant was initially advised that the facility would be limited to the number of powerboats based upon existing use, and that remaining slips could be occupied by sailboats only. However, the applicant's agent contacted the DERM Director's Office and asked the Department to reconsider, stating that since the marina had previously operated with no restriction on the number of powerboats using the existing slips, the facility should be allowed to reconstruct without a limitation on the number of those slips that can be used by powerboats. The Department agreed and issued the permit without further restrictions on the number of slips that can be used by powerboats. Mr. Hefty noted that both the USACOE and the FDEP permits for reconstruction of this marina also did not include restrictions on the number of slips that can be used by powerboats.

Dr. Markley suggested that agenda item number 3 be discussed before item number 2 because not all the expected members had yet arrived; this would allow as many members as possible to be present for item 2

3. Update of data collection efforts:

Dr. Markley presented the following updates.

- The Mote Marine Lab boater use study is on track and on time for a draft final report in April. All aerial survey data have been collected. DERM will review the draft, and after it is deemed acceptable, will provide it to the committee. Dr. Markley suggested that Principal Scientist Jay Gorzelany be invited back to address the committee at a future meeting.
- The County's legislative package did include the BCC's resolution supporting increased fines for speed zone violations. However, it was one of 44 resolutions added to the package. Committee members that would like to have a copy will be provided with the final summary legislative agenda.
- A question arose at a prior meeting about a request from the Miami Dade County Aviation Department for stimulus funds for manatee barriers. There was a concern that this suggested that needed barriers were not in place. The Aviation Department confirmed that

all manatee barriers are in place at MIA. However, due to the Intermodal Center construction, one permanent barrier was removed and replaced with a temporary barrier. The request for stimulus cost sharing was prepared, since this project is ready to go, and could benefit from federal funds. A permanent barrier will be installed whether or not additional federal funding is secured.

Craig Grossenbacher from DERM presented more complete and refined versions of a GIS mapping project previously presented to the MPPRC showing the locations where a permitted facility existed in 1995 and where a permitted facility existed in 2008. Also provided was a table corresponding to the map indicating site specific information. Craig stated that it was DERM's intention to complete this specific mapping project within the next 30 days and that if any members had questions or concerns, they should contact him directly so that all concerns are considered prior to finalizing the map. Craig also presented a new GIS mapping project that has not been shown to the committee before. This project is ongoing and shows the locations where the construction of new as well as rebuilt powerboat slips have been authorized since 1995 pursuant to Class I Coastal Construction Permits. Craig explained that the state requires this information for any updates to the MPP.

Vice Chair Townsend then opened the floor for questions from the MPPRC members. In response to questions, DERM further explained that this newest draft version is a stand alone from the prior version because it contains more information and has received more geographic scrutiny for accuracy. The relevance of the table is that this is information required by the FWC prior to consideration for updates to the 1995 MPP. Additionally, committee members had asked to include the 2008 data in this effort when DERM initially presented it with the 2007 data which was the most up to date information at the time.

2. Changes in Facilities and Slips on the Miami River since 1995:

Dr. Markley gave a presentation, in response to discussion from the previous MPPRC meetings concerning vessel activities in the Miami River area. She explained that the presentation is intended to provide data from permitting records and aerial photos on the number of facilities and vessels on the River over time, and to respond to questions about Appendix D of the 1995 MPP, a list of permitted facilities and slips in existence in 1995. After presenting current MPP guidelines for what is recommended and not recommended for permitting on the Miami River, Dr. Markley presented historical data of the number of observed boats taken from aerial photos (1990, 1995, 2000, 2006, and 2007) that shows the total number of vessels in the River area has generally increased over time. The review also shows some smaller scale changes in distribution of boats. For example berthing in Palmer Lake has almost completely ceased, but more boats are visible in Wagner Creek and Tamiami Canal. She explained the great effort taken by staff to correctly count the visible boats. She showed how some newer aerials are of much improved quality, and that it is sometimes, but not always possible to distinguish sailboats from power boats. She also explained that since the photos are a snapshot in time, they do not account for vessels under sheds or that are simply out of their berths at the time of the photo and cannot be used evaluate boat destinations, frequency of use or travel patterns. Dr. Markley also presented some data from operating permit data bases that shows increases in permitted slips from 1990 to 2007, but a decrease in 2008 that may be related in part to failure of some facilities to renew their permits.

In response to a request from the MPPRC, Dr. Markley presented examples of two facilities on the Miami River that have been increased in slip numbers compared to the number of slips listed in Appendix D of the 1995 MPP. She showed that Norseman Marine's operating permit

has increased from 11 to 33 slips. This was due to expansion of the business activity onto an adjoining leased property, and also due to a historical review of vessel use at the specific parcels now used or leased by Norseman beginning in October 1984, the date included in the current definition of “existing facility”. Using the aerial photo review, DERM was able to document the historical number of boats berthed on the Norseman parcel and the leased properties was as high as 35 total vessels on at least one occasion, and that the slips were generally used for boatyard services and wet slip mooring during the period of review. The second facility example, 5th Street Marina, was shown to have been authorized for an increase in slip numbers from 3 to 6 slips for large vessels (greater than 100 feet in length), since this use is consistent with MPP guidelines for the Miami River. Aerial photo review and operating permit records document that the site was used as a ship terminal for large vessels during the review period.

Vice Chair Townsend then opened the meeting for committee questions and discussion. Spencer Crowley suggested that the 1995 photo of Norseman shows that boats were using the property on the other side of the River, which is now Point Park. Can this historic use allow authorization to rebuild transitory docks at this now public site? Dr. Markley explained that the presence of boats suggests that it may be possible to allow some type of docks, but the photo alone cannot provide the necessary documentation about the type of vessel use that was occurring. The slips would have had to have been transitory at the time of the prior use in order to be permitted as such today, and this is unlikely since the parcel was in private ownership at the time of the photo. It is also possible that the boat use was not legal at the time. Mr. Bibeau suggested that, based on the little boat use made of Point Park by the public, it should not be assumed that a courtesy dock would generate many more trips than a permanent facility.

A discussion ensued about the slide showing slips with operating permits for 2008. Mr. Bibeau was concerned that the slide misleading, because slips for which there was no active permit are presented only for 2008 and not provided for the other years summarized. He noted that permitted slips have declined from 2007 to 2008. Dr. Markley agreed that ideally the information should be presented for all years, but that DERM had only verified the current, active files. It is difficult to verify what facilities that should have obtained permits in the past, but did not, without intensive investigation of records and inspections. Dr. Zaias pointed out total that the data shown for 2008 are critical because it includes berths that are operating, not just permitted. Manatees are impacted by operating boats, whether or not the facility renewed its permit. Mr. Bibeau asked if DERM has the authority to shut down a facility that is operating without a permit. Dr. Markley responded that that type of enforcement is the last option unless there is some serious ongoing pollution or other condition that would harm the environment or humans. DERM typically follows a course of progressive enforcement, beginning with warnings or “tickets”. DERM does not typically seek closure of a facility for administrative violations.

Mark Lewis stated that a main conclusion he drew from the presentation was that new slips can be permitted on the Miami River. Dr. Markley indicated that this was one valid interpretation. She explained that another objective was to show the challenges of responding to what seem to be simple questions about “existing slips” or unused slips for the River or the county as a whole due to limitations of the types of objective information, and why this generally must be done on a site-by-site basis. Dr. Markley pointed said the presentation may also show the increasing difficulty of determining the historic use as the October 1984 date is farther in the past.

4. Public Comment

Fran Bohnsack of the Miami River Marine Group (MRMG) presented a letter from Orin Black about his continuing dissatisfaction with the number of slips permitted at his property, and requested that it be disseminated to the committee members along with the power point presentation given by Dr. Markley prior to the public comment. The Vice Chair accepted the letter and requested DERM staff to distribute to each member. Dr. Bohnsack encouraged the MPPRC to seek a balance between the environmental and marine industry concerns. She also expressed concern with the 4th bullet on the “Existing Facilities” discussion sheet provided to the MPPRC. She stated that the boating industry vessel types and uses change, and that flexibility to accommodate this is needed. She also stated that the “rolling date” idea is not one that the MRMG would endorse or support because it is confusing and is viewed as a possible restriction of rights of the property owners on the River. Finally, Dr. Bohnsack expressed concerns with the “slip transfer” discussion sheet, particularly with the idea that slip transfers be in a downstream direction.

Ed Swakon, President of the Miami Marine Council (MMC), advocated for keeping the 1984 date in determining historic use because a more recent date would result in the further loss of slips. He stated that the MMC will advocate for the retention of the date in the current plan.

Dr. Katie Tripp, Director of Science and Conservation for the Save the Manatee Club, provided a handout the committee members. She stated that she has reviewed the recorded DVD's of the MPPRC meetings to date. She cautioned the MPPRC against changing the MPP to allow more development because the current plan already allows for moderate development, which is an acceptable compromise. She expressed disappointment with the MPPRC for focusing more on data about boats and marine interests, rather than on manatees and their protection. Dr. Tripp strongly recommended that changes to the MPP be based on scientific data in relation to maintaining manatee protection and that the plan not be arbitrarily weakened. Vice-Chair Townsend requested that a hard copy of her comments be provided to the members of the committee.

Several members thanked Dr. Tripp for traveling to Miami to address the committee. Lynda Green agreed with Dr. Tripp's comments. She admonished the MPPRC for focusing on personal interests, increasing slips and adding more vessels in manatee habitat in lieu of protection for the manatee. Ms. Green also expressed frustration about the amount of time that has been spent discussing changes to the plan that would benefit the Miami River. Judith Futerfas stated that if the manatee population is increasing, it may be related to the current vessel restrictions.

Pam Sweeney, from the Florida Department of Environmental Protection Biscayne Bay Aquatic Preserve, provided an update on law enforcement training held in February 2009 as well as on the latest Marine Advisory Group (MAG) meeting. The training was initially focused for Miami-Dade County, but law enforcement from Monroe to Martin County participated representing 25 agencies. At the recent MAG meeting, Dr. Tom Reinert, from Florida Fish and Wildlife Conservation Commission (FWC) attended and discussed regional and local population concerns including manatee mortalities. She noted an ongoing concern with manatee deaths in Miami-Dade.

Vice Chair Townsend and Ms. Sweeney discussed challenges of adequately marking and enforcing shoreline vessel speed zones and educating the public about them. Ms.

Sweeney stated that the FWC contractor (PBS&J) was present at the MAG meeting and reported that the first tier of sign replacement is complete. She believes that the second tier of that work will begin in the next fiscal year.

Lynda Green then requested open discussion and made the point that even though the manatee population may be increasing, that does not mean that the population is healthy. She believes that just the fact that every manatee is identified by the scars on its back tells the story of their peril. Dick Townsend agreed that there is too much emphasis on body count. Brett Bibeau asked Ms. Sweeney and Dr. Tripp to comment further on the progress with signage. Are their agencies doing everything possible to support the Manatee Protection Plan Review Committee and Board of County Commissioners request to increase fines for speeding boats? Dr. Tripp indicated that she would discuss Mr. Bibeau's concern with the FWC and ensure follow up if needed. Committee members discussed the issues of water depth and providing adequate clearance for the manatee while a large vessel or many vessels pass by. Dr. Mansfield requested that DERM provide a map of large vessel areas and water depth. Dr. Markley said that DERM can provide maps showing ship terminals, but that DERM does not survey or maintain databases on water depth or actual drafts of boats using the channels.

Vice Chair Townsend explained the difference between sailboat props (sheathed) and powerboat props (multiple and open) and why sail boats are generally safer for the animal than a motor boat even at slow speed. Dr. Markley also provided additional information in this regard. Mark Lewis requested information on the diving capability of the manatee. Dr. Tripp suggested a study of tagged animals that might show typical patterns, but not biological capability for diving. She noted that the dive capability won't help the animal in heavy traffic when they need to come up for air. Mr. Bibeau commented that the dredging of the Miami River and the Port of Miami should make them safer for the manatee. Lynda Green suggested that mortality data speak otherwise. Dr. Markley suggested that the necropsy information verifies that manatees have been killed by boats upstream in the Miami River and by large vessels.

5. Review of draft minutes of February 24, 2009: Vice Chair Townsend asked whether the February minutes required any discussion. Lynda Green made a motion to accept the meeting minutes as drafted. Dr. Mansfield seconded the motion. The motion passed unanimously.

6. Proposed date for next regular meeting: Friday April 24, 2009 from 1:00 P.M. - 4:30 P.M. Vice Chair Townsend requested that DERM poll the absent members for availability and keep Wednesday April 22 as a back up date. The meeting adjourned at 4:00 P.M.